



Staff Capability Policy

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Approved By	Finance and Operations Committee

Policy Category (Please Indicate)	1	Academy to implement without amendment
	2	Academy specific appendices
	3	Academy personalisation required (in highlighted fields)



Summary of Changes from Previous Version

Version	Date	Author	Summary of Updates
V1	November 2023	HR Manager and Legal	<p>New Policy incorporating all colleagues across ELP</p> <ul style="list-style-type: none"> • Policy replaces two previous policies – one for teaching capability and one for support staff capability • Processes have been combined to include all staff • Additional level has been added to replicate the disciplinary procedure – informal, first formal, second formal, decision • Processes within each stage remain the same as previously. • ELP Personal Support Plan is a separate document that sits alongside this policy and is available from HR

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1. Aims

The aim of our capability policy is to set out a clear and consistent process for when a member of staff falls below the levels of competence expected of them, as set out in the relevant professional standards, job descriptions and overall performance expectations.

This procedure does not form part of any contract of employment or other contract to provide services.

The Trust reserves the right to depart from this procedure where appropriate (including but not limited to during an employee's probationary period).

2. Legislation and guidance

This policy is based on the ACAS code of practice on disciplinary and grievance procedures.

When carrying out capability procedures, we will ensure that we abide by the Equality Act 2010.

This policy also complies with our funding agreement and articles of association.

3. Definitions

Lack of capability is defined as

- A staff member failing to perform their role at the level of competence expected of them and that their job requires

4. Capability Procedure

Performance is monitored on a day to day basis by line managers, supported by performance management and CPD activities.

During all stages of the capability procedure, concerns should be clearly identified, with clear targets and performance standards set. These should be confirmed to the employee in a Personal Support Plan (PSP) together with details of any help and support and a clear timetable for improvement.

Employees have the right to be accompanied by a work colleague or trade union representative at any formal capability meetings.

Where an early career teacher (ECT) is subject to capability procedures, we will continue the induction process in parallel with the capability procedure and inform the appropriate body.

For the avoidance of doubt, this procedure does not apply to cases involving genuine sickness absence or misconduct. In those instances, reference should be made to the relevant policy or procedure.



4.1 Informal Stage

Where the capability of an employee is giving cause for concern, the matter will be raised with the employee concerned and a period of informal support will be provided.

After the completion of the period of support, a meeting will be arranged to discuss the progress during the support period. After consideration, one of three outcomes will be confirmed:

- No further action required
- To extend the length of the informal support period
- To commence formal capability procedure

4.2 Formal Stage

4.2.1 First formal capability meeting

At least 10 working days' written notice will be given of the formal capability meeting.

The meeting will be conducted by a member of the trust leadership team, academy leadership team or the chair of governors.

The purpose of the meeting is to establish the facts, and to allow the member of staff to respond to the concerns and make relevant representations.

The chair of the meeting will:

- Explain the expected standards that are not being met
- Give clear guidance on the standard of performance needed to end the procedures.
- Explain the support available to help the member of staff improve their performance
- Set out the timetable for improvement and explain how performance will be monitored and reviewed
- Explain the consequences of failing to improve within the review period, or of further unsatisfactory performance.

If it becomes clear from the meeting that there are no grounds to pursue the capability issue the procedure will come to an end.

If further information / investigation is needed the meeting the meeting should be adjourned for an appropriate length of time.

4.2.2 First formal review meeting

Upon completion of the support period, a formal review meeting will be undertaken. We will write to the member of staff giving 10 working days notice of the meeting.

The employees' performance will be discussed and the employee will be given the opportunity to comment on the points raised. After consideration of all the points and an adjournment, one of three possible outcomes will be confirmed:

- If satisfied with the staff member's performance, no further action will be taken under capability procedure.
- If substantial but insufficient progress has been made and there is confidence that more improvement is likely, it may be appropriate to extend the support period.
- If the staff member's performance is not satisfactory, a first written warning will be issued.

Where a first written warning is issued, this will set out: the areas in which the staff member has not met the required performance standards, targets for improvement, any measures (such as additional training or supervision) which will be taken with a view to improving the staff member's performance, a period for review and the consequences of a failure to achieve an acceptable



standard of performance within the set timescale, or of further unsatisfactory performance.

The warning will normally remain active for 6 months from the end of the review period?.

4.2.3 Second formal review meeting

Upon completion of the support period, or if there is further evidence of poor performance whilst a staff member's first written warning is still active, a second formal review meeting will be undertaken. We will write to the member of staff giving [HOW MUCH NOTICE] of the meeting.

The employee's performance will be discussed and the employee will be given the opportunity to comment on the points raised. After consideration of all the points and an adjournment, one of three possible outcomes will be confirmed:

- If satisfied with the staff member's performance, no further action will be taken under the capability procedure.
- If substantial but insufficient progress has been made and there is confidence that more improvement is likely, it may be appropriate to extend the support period.
- If the staff member's performance is not satisfactory, a final written warning will be issued.

Where a final written warning is issued, the member of staff will be informed in writing of: the areas in which the staff member has not met the required standards, targets for improvement, any measures (such as additional training or supervision) which will be taken with a view to improving the staff member's performance, a period for review and of the consequences of failing to improve within the review period, or of further unsatisfactory performance.

A final written warning will normally remain active for 12 months from the end of the review period.

4.3 Decision meeting

We may decide to hold a decision meeting if we have reason to believe:

- the staff member's performance has not improved sufficiently within the review period set out in a final written warning;
 - the staff member's performance is unsatisfactory while a final written warning is still active; or
 - the staff member's performance has been grossly negligent such as to warrant dismissal without the need for a final written warning.
- At least 10 working days' notice will be given of the meeting.

Following the hearing, if it is found that the staff member's performance is unsatisfactory, we may consider a range of options, including:

- Dismissal;
- Redeployment;
- Extending an active final written warning and setting a further review period (in exceptional cases where we believe a substantial improvement is likely within the review period); or
- Giving a final written warning (where no final written warning is currently active).

Where a staff member is dismissed, they will be informed in writing the reason for dismissal, the date the contract will end, the appropriate period of notice and their right to appeal.



5. Right to appeal

Appeals can be made against any formal warning or dismissal. These must be made in writing, within 5 working days of the decision, setting out clearly the grounds of appeal. Appeals will be heard without unreasonable delay and at an agreed time and place. The statutory right to be accompanied will apply as with formal capability and review meetings. The appeal will be dealt with impartially and by senior leaders of governors who have not previously been involved with the case.

6. Record Keeping

- › Minutes will be kept of all formal meetings.
- › Records of all materials relating to the capability process will be kept securely, only for as long as necessary and in line with data protection law, our privacy notices and document retention schedule.

7. Monitoring Arrangements

This policy will usually be reviewed every 2 years, but can be revised as needed from time to time. It will be reviewed by the HR Manager and approved by the full board of directors

8. Links with other policies and documents

This policy has links with our policies on

- › Staff Code of Conduct
- › Staff Performance management
- › Staff Disciplinary
- › Staff grievance
- › Equality and Diversity
- › Early careers teacher induction
- › Personal Support Plan

Policy Agreed: November 2023

Signed Chief Executive:

Signed: Chair of Directors:

Policy to be reviewed in September 2025